

**Business Enterprise Program Council for Minorities,  
Females, and Persons with Disabilities Meeting**

**MEETING MINUTES**

**Monthly Council Meeting  
Location: Video Conference Room 2-025  
James R. Thompson Center  
100 W. Randolph Street, Chicago, Illinois**

**Monday, August 23, 2010 1:00 p.m.**

**COUNCIL MEMBERS IN ATTENDANCE**

Patrick Blair, via video conference  
Nelida Smyser-Deleon  
Alesia Hawkins  
Lourdes Coss  
Raymond Arias  
Beth Doria  
Florence Cox  
Jesse Martinez  
Lynne Turner  
Larry Ivory, via video conference

**COUNCIL MEMBERS NOT IN ATTENDANCE**

Hedy Ratner  
Michael Gonzalez  
Phillip Barreda  
Letitia Herrera  
Lawrence Parrish

**COUNCIL CHAIRMAN**

James P. Sledge, CMS/ Director

**ACTING COUNCIL SECRETARY**

Elias Ricks Ngwayah II, CMS/BEP

**CMS STAFF IN ATTENDANCE**

Philina King, CMS/BEP Legal Counsel  
Nadine Lacombe, CMS General Counsel  
Jerome Cephas, CMS Procurement Counsel  
Steve Schweitzer, CMS Legal Counsel  
Lynn Carter, CMS Deputy General Counsel, Procurement  
Jacob Stuckey, Special Assistant to Director James Sledge  
Agueda Corona, Disparity Study Manager  
Susan Hartman, CMS/BOSSAP  
Harry Reinhard, CMS/BEP  
Leslie Taylor, CMS/BEP  
Carlos Gutierrez, CMS/BEP  
Gladys Rodriguez, CMS/BEP  
Yvette Riley, CMS/BEP  
Rachel Y. Barksdale Little, CMS/BEP

## **OTHERS IN ATTENDANCE**

Aaron Carter, Executive Director for Procurement Policy Board  
Norma Sutton, Chief Purchasing Officer, Illinois Department of Revenue  
Jodie Winnett, Acting Superintendent, Illinois Lottery

## **AGENDA**

- 1.0 CALL TO ORDER
- 2.0 ROLL CALL
- 3.0 APPROVAL OF THE MINUTES OF THE REGULAR COUNCIL MEETING HELD  
ON July 26, 2010
- 4.0 CHAIR'S REPORT
- 5.0 POSTED BUSINESS
  - 5.1 Senate Bill 51 Presentation – Lynn Carter, Deputy General Counsel –  
Procurement, Central Management Services
- 6.0 UNFINISHED BUSINESS
  - 6.1 Committee Updates
    - A. Exemption/Compliance Committee
    - B. Bonding Committee
    - C. Professional Services
    - D. Policy/Enforcement Committee
- 7.0 NEW BUSINESS
- 8.0 ADJOURNMENT

## **CALLED TO ORDER**

James P. Sledge, Director for Illinois Department of Central Management Services, called the Business Enterprise Program Council meeting to order at 1:10 PM.

Elias Ricks Ngwayah II, Acting Business Enterprise Council Secretary, took roll call.

## **MINUTES OF COUNCIL MEETING OF July 26, 2010**

The minutes of the Council meeting held July 26th were motioned for approval by Beth Doria and seconded by Lourdes Coss without opposition or abstentions.

## **2010 COUNCIL MEETINGS**

The upcoming BEP Council meetings are scheduled for the fourth Monday of each month, from 1:30 PM. to 3:00 PM. The start time for the BEP Council meetings has been switched from 1:00 PM to 1:30 PM, effective, September 27, 2010.

The Council meeting calendar for 2010 is as follows:

27<sup>th</sup> September 2010 – JRTC, Room 2-025  
25<sup>th</sup> October 2010 – JRTC, Room 2-025  
22nd November 2010 – JRTC, Room 2-025  
27<sup>th</sup> December 2010 – JRTC, Room 2-025

## **POSTED BUSINESS**

Chair James Sledge called for presentations.

Presentation by Lynn Carter:

Lynn Carter gave a presentation focused on implementation and amendments to Public Act 96-795. Ms. Carter provided a recap of the challenges that vendors may face under the new procurement rules. After her presentation, Ms. Carter addressed Council member's questions and concerns.

Legislation changes and amendments to SB51 are as follows:

During the spring session, SB 3576, the trailer bill for Public Act 96-795, passed both Houses and was signed by Governor Pat Quinn on June 16, 2010. SB 3576 provides some relief to state agencies and small businesses, but does not address all problems/issues.

For example:

Subcontractors:

- PA 96-795: Required reporting, financial disclosures and certifications for all subcontractors.
- SB 3576: Limits the reporting requirements to subcontractors with annual value of \$25,000 or more. IDOT is limited to first tier subcontractors only.

Rationale: PA 96-795 required prime contractors to report all business with subcontractors including, financial disclosures and certifications. SB 3576 requires reporting with subcontracts valued at \$25,000 or more. In addition Chief Purchasing Officers (CPO) issued a policy statement to all state agencies advising when agencies are required to disclose first tier subcontractors and lower tier subcontractors.

Governor and Legislature Appointments to Executive Ethic Commission (EEC):

There are four (4) new CPOs that will take their office, effective September 1, 2010.

- CPOs will be assigned to the following state agencies: Capital Development Board (Fred Hahn), Higher Education System (Ben Bagby), and Central Management Services (Matt Brown) and Department of Transportation (not yet assigned).

Pre-solicitation assistance: SB 3576 a/k/a the Trailer Bill, House Amendment #2:

SB 3576 clarified the section on pre-solicitation assistance by vendors. Vendors' were concerned that if they entered into a conversation for procurements it may disqualify them from bidding on a future solicitation. SB 3576 provides leeway for general conversation for procurements and general sales pitches that vendors would make to buyers in the ordinary course of business. Furthermore, it allows the state the opportunity to explore new products and technologies and gather information without disqualifying vendors.

Procurement Communication Reporting, (30 ILS 500/50-39 new) Section 50-39:

The Executive Ethics Commission (EEC) has been charged with writing rules to implement this Section. This Section becomes operative on January 1, 2011 which will further define how this Section will work.

**UNFINISHED BUSINESS**

Chair James Sledge called for committee updates.

A. Exemption/Compliance Committee

Jesse Martinez reported information he received on “good faith efforts,” as it relates to a disabled veterans program in California. The California documents state that if a solicitation contains a DVBE participation goal, then the awarding department must award the contract to the lowest responsible bidder who meets the goal. Mr. Martinez asked if this language could be incorporated in procurements. Chair James Sledge asked Mr. Martinez to forward his information to Philina King Deputy General Counsel for BEP for review

Beth Doria indicated to the Council that the Exemption/Compliance Committee will continue to:

- Review and close monitor of state agencies BEP goal attainment and performance
- Identify state agencies and state universities that show a pattern of underachievement and offer assistance to those agency/university that do not meet their goal as proposed

B. Bonding Committee - No Report

C. Professional Services Committee – No Report

D. Policy/Enforcement Committee

Beth Doria reported on the following items.

Policy/Enforcement Committee Meetings:

- Ms. Doria reported that her committee has already met twice and extended an invitation to other Council members’ to participate. The committee will meet in the same room as the regular scheduled monthly meeting from 12 Noon to 1:00 PM, JRTC: Room 2-025.
- Members in attendance for the August 23, 2010 policy/enforcement committee meeting includes, Beth Doria, Lead Chairman, Philina King, CMS/BEP Legal Counsel and BEP staff, Leslie Taylor, Carlos Gutierrez, Harry Reinhard and Elias Ricks Ngwayah III.

Policy/Enforcement Committee Recommendations:

- Ms. Doria distributed handouts to Council members on the policy/enforcement committee recommendations to revise the Joint Committee Administrative Rules – Administrative Code Title 44 Section 10.50 part (b) which states the following –
  - “The Secretary will certify a business firm that meets the requirements of the Act and this Part. All certifications, new and existing shall be for a period of 3 years from the effective date of the certification, subject to annual confirmation.”
- The Policy/Enforcement Committee recommends that Joint Committee Administrative Rules - Administrative Code Title 44 Section 10.50 part (b) be revised to reflect a full certification period of 5 years to include the following –
  - “The Secretary will certify a business firm that meets the requirements of the Act and this Part. All certifications, new and existing shall be for a period of 3 years 5 years from the effective date of the certification, subject to annual confirmation.”
- The policy/enforcement committee makes these recommendations in an effort to make the certification process more efficient. The administrative changes would be beneficial to vendors and would bring uniformity between all of the certifying entities.
- Ms. Doria advised most of the other certifying entities are moving to 5 year certification period, including City of Chicago, Chicago Transit Authority (CTA), Illinois Department of Transportation (IDOT), METRA and PACE.

Beth Doria yields floor to members' for discussion on certification.

Discussion and questions were raised by Council members. Gladys Rodriguez and Carlos Gutierrez advised that on an annual basis, at least 60 days prior to the anniversary date of the business firm, the business firm will be required to complete a No-change Affidavit form and submit to the Business Enterprise Program as a condition of continued certification.

Beth Doria yields floor to Chair James Sledge to carry motion.

By a motion duly made to amend and change Section 10.50 part b of the Joint Committee Administrative Rules – Administrative Code Title 44 certification from 3 years to 5 years was seconded by Larry Ivory and was duly carried by unanimous vote.

Other recommendations made by the policy/enforcement committee, include:

- It is the recommendation of the policy/enforcement committee to revise the contract BEP spend cap. Ms. Doria called members' attention to a memorandum dated February 27, 2007 by former CMS Director, Paul Campbell, subject "Procurement Transparency."

Memorandum dated February 27, 2007, Page 3 under BEP and Small Business, third bullet states the following –

- "The Business Enterprise Program has been improved by establishing a policy requiring RFPs over \$500,000 to contain specific BEP participation goals (unless waived by CPO)."

The policy/enforcement committee recommends the following CMS Administration policy changes –

- Establish a new policy requiring RFPs, IFBs, CMS Master Contracts and Sole Source procurements over \$100,000 to contain specific BEP participation goals.
- The policy/enforcement committee makes these recommendations due to the extremely low percentage of dollars minority and female owned businesses are receiving through state contract process.

Noted: That BEP Council will vote on these items at the next meeting, revisions to follow.

## **NEW BUSINESS**

Chair James Sledge called for new business.

### **Procurement Updates/Reports**

#### **Illinois Department of Revenue, IL Lottery: Private Manager, RFP:**

Member Larry Ivory asked members to clarify for him if the IL Lottery: Private Manager RFP contains BEP goals.

Susan Hartman responded and said that the IL Lottery procurement was one the legislature made outside of the Illinois Procurement Code. Therefore it does not come up under CMS review and utilization plans.

Susan Hartman yields floor to Jodie Winnett, Acting Superintendent of the IL Lottery.

Ms. Winnett introduced herself to the Council and explained briefly her position at the IL Lottery. She advised that her agency is identifying the finalists for the Private Manager solicitation. She welcomed the opportunity to work with the Council on this particular RFP.

Contract Specifics are as follows:

- Contract Terms: 10/years. Ms. Winnett noted that the IL Lottery spends approximately \$100 million a year on goods and services that would now fall under the Private Manager's responsibilities such as advertising, printing of tickets and scratch tickets etc.
- The RFP contains 20% BEP participation goal
- RFP Stage Process  
These are:
  - IL Lottery has identified the finalists
  - Finalists proposals are due next Monday, August 30, 2010
  - The finalists will be further evaluated, followed by a recommendation to Governor Pat Quinn. Governor Pat Quinn will select the Private Manager on September 15, 2010.
- Compliance Mechanisms after selection and award:
  - Private Manager Firm will be required to provide monthly progress reports to IL Lottery re: BEP goal attainment and scope of work performance. IL Lottery will closely monitor contract to ensure that the 20% BEP goal is met, as well as advise the BEP Council on the progress of the contract and goals.
- IL Lottery contract requirements for contractor:
  - Private Manager firm will host a community outreach business fair with IL Lottery, as well as perform vendor outreach to choose all their suppliers.
  - Private Manager will participate in minority training programs and establish a minority advisory council to receive advise, research and technical assistance.
  - Private Manager firm will develop partnerships with minority businesses throughout the State of Illinois to increase their capacity to partner with private management firms in providing goods and services to the IL Lottery.

IGB-Illinois Gaming Board, RFP solicitation:

- Member Larry Ivory asked if IGB contract for Central Communication System-Video Gaming Act had been settled. Chair James Sledge and Lynn Carter advised that the contract was executed and signed. The procurement is now complete and closed.

Announcements

- Acting Council Secretary Elias Ricks Ngwayah III introduced Aaron Carter Executive Director for Illinois Procurement Policy Board (PPB) to the Council.
- Beth Doria asked Aaron Carter to provide his view on the BEP Council's role in light Senate Bill 3249 that adds BEP goals to capital projects.
  - Mr. Carter advised that bill 3249 seem to have taken agencies off guard. As a result, the bill slowed down PPB waiver process and operational duties and responsibilities.
  - Mr. Carter noted PPB is open to hear CMS/BEP and BEP Council suggestions and recommendations as they outline policy for state agencies. Mr. Carter said that the PPB wants to do what's best for the agencies.
- Member Larry Ivory invited members to attend his organizations annual convention. The Illinois Black Chamber of Commerce will host their 5<sup>th</sup> Annual Convention, August 25<sup>th</sup>

ad August 26<sup>th</sup> at the Hyatt Regency McCormick Place – Chicago. Mr. Ivory is the President of the Illinois Black Chamber of Commerce.

- Mr. Ngwayah and Chair James Sledge discussed with members' about switching the start time of the meeting from 1:00 PM to 1:30 PM, starting next month. Council agreed. Chair James Sledge advised that members' will be notified of the time change.

Next Steps:

- Next meeting is scheduled for Monday, September 27, 2010, James R Thompson Center, 100 W Randolph Street, Room 2-025, 1:30 PM to 3:00 PM.
- Policy/Enforcement Committee meeting will be held Monday, September 27, 2010, James R Thompson Center, 100 W Randolph Street, and Room 2-025, 12:30 PM to 1:30 PM.

Meeting Adjourned at 2:11 PM